

#15 12-6-7

**Petition For Revival Of An Application For Patent Abandoned
Unintentionally Under 37 CFR 1.137(b) (Small Entity)**

Docket No.
16LP-134175

In Re Application Of: Aye et al.

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/920,071	8/1/01	Leonidas BOUTSIKARIS	30764	2872	4421

Invention: 3-D HLCD SYSTEM AND METHOD OF MAKING

Attention: Office of Petitions
Mail Stop Petition
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper response to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extension of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. ☒ A proposed reply to the above-identified Office Action:

☒ is enclosed. ☐ was filed on _____

The proposed reply is in the form of: _____

2. ☐ The issue fee:

☐ is enclosed. ☐ was paid on _____

3. ☒ Applicant claims small entity status. See 37 CFR 1.27

4. ☐ The abandoned application was a:

☐ design application. ☒ utility application. ☐ plant application.

5. ☐ A terminal disclaimer (and fee) disclaiming a period equivalent to the period of abandonment is enclosed.

6. ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

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Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/920,071	8/1/01	Leonidas BOUTSIKARIS	30764	2872	4421

Invention: **3-D HLCD SYSTEM AND METHOD OF MAKING**

Calculation and Payment of Fees

Enclosed are the following fees:

7. ☒ Petition fee under 37 CFR 1.17(m) in the amount of: \$770.00
8. ☐ Fee for reply in the amount of: _____
9. ☐ Issue fee in the amount of: _____
10. ☐ Continuing application filing fee in the amount of: _____
11. ☐ Terminal disclaimer fee in the amount of: _____
12. ☐ _____

Total fees enclosed: \$770.00

The fee of **\$770** is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-1853**
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**Petition For Revival Of An Application For Patent Abandoned
Unintentionally Under 37 CFR 1.137(b) (Small Entity)**

Docket No.
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Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/920,071	8/1/01	Leonidas BOUTSIKARIS	30764	2872	4421

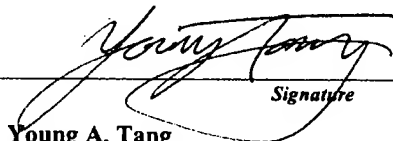
Invention: **3-D HLCD SYSTEM AND METHOD OF MAKING**

Statement

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioner/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


Signature

Young A. Tang
Reg. No. 55,665

SHEPPARD MULLIN RICHTER & HAMPTON LLP
333 S. Hope Street, 48th Floor
Los Angeles, CA 90071
Telephone: 858-720-8900
Facsimile: 858-509-3691

Dated: **December 6, 2007**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

CC:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/920,071
Applicant: Aye *et al.*
Filed: August 1, 2001
Title: 3-D HLCD System And Method Of Making

Group Art Unit: 2872
Confirmation No.: 4421

Docket No.: 16LP-134175
Examiner: Boutsikaris, Leonidas

**DECLARATION OF LEONARD TACHNER IN SUPPORT OF
PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR
1.137**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Leonard Tachner, declare as follows:

1. I am a resident of the state of California and a citizen of the United States of America.
2. I am a principal of the firm Leonard Tachner, PLC, a Professional Law Corporation, also known as "The Law Offices of Leonard Tachner." I am an attorney licensed in the state of California and registered to practice before the United States Patent and Trademark Office. My registration number is 26344.
3. I was retained by the Physical Optics Corporation to represent them for all matters relating to docketing, prosecution and maintenance of their patents and patent applications worldwide.

4. The Physical Optics Corporation is the owner of the entire right, title, and interest in U.S. Patent Application No. 09/920,071, filed on August 1, 2001 and entitled "3-D HLCD System And Method Of Making."

5. At the time the subject patent went abandoned for failure to timely file a proper reply to the November 18, 2002 Office Action, my office was outside counsel for Physical Optics Corporation, and was responsible for this matter.

6. My office takes reasonable steps to ensure timely response to actions and timely payment of maintenance fees. My office uses a docketing system to track actions and fees due and their associated due dates and that we took reasonable steps to ensure that matters were timely entered into the system. Actions due and dates tracked included payment of maintenance fees, responses to office actions, payment of issue fees and other like docketing items.

7. I provided regular status reports to the Physical Optics Corporation detailing statuses, actions due, fees due and deadlines for all worldwide patents and applications.

8. The failure to file a proper reply was due to a docketing error and was unavoidable.

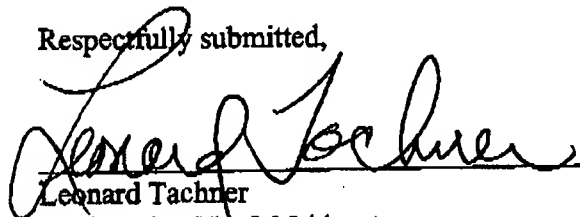
9. Accordingly, the entire delay in appropriately replying to the November 18, 2002 Office Action until the filing of an RCE was unavoidable and unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: _____

12-5-07


Leonard Tachner
Registration No. 26,344

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/920,071
Applicant: Aye *et al.*
Filed: August 1, 2001
Title: 3-D HLCD System And Method Of Making

Group Art Unit: 2872
Confirmation No.: 4421

Docket No.: 16LP-134175
Examiner: Boutsikaris, Leonidas

**DECLARATION OF GORDON DREW IN SUPPORT
OF PETITION FOR REVIVAL OF ABANDONED
APPLICATION UNDER 37 C.F.R. § 1.137**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Gordon Drew, declare as follows:

1. I am a resident of Torrance, CA and a citizen of the United States of America.
2. I am the Chief Financial Officer for the Physical Optics Corporation, which is the owner of the entire right, title, and interest in U.S. Patent Application No. 09/920,071, filed on August 1, 2001 and entitled "3-D HLCD System And Method Of Making."
3. I am responsible for patent matters at the Physical Optics Corporation.

4. The entire delay in appropriately replying to the November 18, 2002 Office Action was unavoidable and unintentional.

5. The Physical Optics Corporation takes reasonable steps to ensure timely response to actions. To this end, the Physical Optics Corporation relies on outside counsel for all matters relating to docketing, prosecution and maintenance of its patents and patent applications worldwide. The Physical Optics Corporation receives and relies on regular status reports from outside counsel detailing statuses, actions due, fees due and deadlines for all worldwide patents and applications.

6. At the time this patent application went abandoned for failure to timely file a proper reply, Leonard Tachner at The Law Offices of Leonard Tachner was outside counsel for Physical Optics Corporation, and was responsible for the items outlined in paragraph 5, above.

7. I am informed and believe that Mr. Tachner is an attorney licensed in the state of California and registered to practice before the United States Patent and Trademark Office.

8. I am informed and believe that Mr. Tachner uses a docketing system to track actions and their associated due dates and that Mr. Tachner took reasonable steps to ensure that matters were timely entered into the system.

9. The Physical Optics Corporation never received any communication from Mr. Tachner that reported the November 18, 2002 Office Action.

10. Physical Optics Corporation never received any communication from Mr. Tachner indicating that the above patent application had been or would become abandoned.

11. Physical Optics Corporation did not at anytime authorize or instruct Mr. Tachner to allow the patent application to go abandoned.

12. Accordingly, the Physical Optics Corporation believed that the above patent application was still pending at the United States Patent and Trademark Office.

13. On or about August of 2007, the Physical Optics Corporation learned that numerous patent matters that Mr. Tachner was responsible for may have gone abandoned even though we did not receive any communication from Mr. Tachner to indicate that such matters had gone abandoned or would become abandoned.

14. We immediately attempted to contact Mr. Tachner to investigate whether the status reports we had been receiving were accurate and to determine the extent of inaccuracies. Mr. Tachner refused to return our calls or answer our inquiries.

15. Because Mr. Tachner was not responsive to our repeated inquiries, in September of 2007 we undertook a search for new counsel to handle our patent matters, and in October of 2007 retained Sheppard Mullin Richter & Hampton (SMRH) as our intellectual property counsel.

16. In October of 2007, we initiated a transfer of all of our patent files to SMRH.

17. I am informed and believe that SMRH undertook a thorough investigation of our entire docket of intellectual properties and learned that the subject patent application had been abandoned for failure to reply to an Office Action. This was the first time we learned that this patent application was abandoned as it was not communicated to us by our prior counsel, Mr. Tachner.

18. I am informed and believe that during October and early November of 2007, Daniel N. Yannuzzi, a partner at SMRH, made repeated attempts to contact Mr. Tachner regarding the abandonment. Mr. Tachner has refused and continues to refuse to return Mr. Yannuzzi's telephone calls.


19. I am informed and believe that SMRH worked diligently to attempt to obtain a declaration signed by Mr. Tachner regarding the abandonment and to prepare a substantive response to the November 18, 2002 Office Action.

20. Accordingly, the entire delay to file a proper reply to the November 18, 2002 Office Action until the filing of a grantable petition was unavoidable and unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: Dec. 5, 2007



Gordon Drew
Chief Financial Officer
Physical Optics Corporation

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/920,071
Applicant: Aye *et al.*
Filed: August 1, 2001
Title: 3-D HLCD System And Method Of Making

Group Art Unit: 2872
Confirmation No.: 4421

Docket No.: 16LP-134175
Examiner: Boutsikaris, Leonidas

Application No.: 09/920,071

**DECLARATION OF DANIEL YANNUZZI IN SUPPORT OF
PETITION FOR REVIVAL OF ABANDONED APPLICATION
UNDER 37 C.F.R. § 1.137**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Daniel N. Yannuzzi, declare as follows:

1. I am an attorney licensed to practice law in the State of California and I am a partner at the law firm of Sheppard, Mullin, Richter & Hampton. I am registered to practice before the United States Patent and Trademark Office (USPTO).
2. Sheppard, Mullin, Richter & Hampton represents the Physical Optics Corporation, which is the owner of the entire right, title, and interest in U.S. Patent Application No. 09/920,071, filed on August 1, 2001 and entitled "3-D HLCD System And Method Of Making."
3. I am informed and believe that the Physical Optics Corporation takes reasonable steps to ensure timely response to communications (e.g., Office Actions) from

the USPTO. To this end, the Physical Optics Corporation relies on outside counsel for all matters relating to docketing, prosecution and maintenance of its patents and patent applications worldwide. The Physical Optics Corporation receives and relies on regular status reports from outside counsel detailing statuses, actions due, fees due and deadlines for all worldwide patents and applications.

4. I am informed and believe that at the time this patent application went abandoned for failure to timely file a proper reply, Leonard Tachner at The Law Offices of Leonard Tachner was outside counsel for Physical Optics Corporation, and was responsible for the items outlined in paragraph 3, above.

5. I am informed and believe that Mr. Tachner is an attorney licensed in the state of California and registered to practice before the United States Patent and Trademark Office.

6. I am informed and believe that Mr. Tachner uses a docketing system to track actions and their associated due dates.

7. I am informed and believe that Mr. Tachner did not send any communication to the Physical Optics Corporation to report the November 18, 2002 Office Action.

8. I am informed and believe that the Physical Optics Corporation has never received any communication from Mr. Tachner indicating that the above patent application had been or would become abandoned.

9. I am informed and believe that the Physical Optics Corporation did not at anytime authorize or instruct Mr. Tachner to allow the patent application to go abandoned.

10. I am informed and believe that on or about August of 2007, the Physical Optics Corporation learned that numerous patent matters that Mr. Tachner was

responsible for may have gone abandoned even though the Physical Optics Corporation did not receive any communication from Mr. Tachner to indicate that such matters may have gone abandoned or would become abandoned.

11. I am informed and believe that the Physical Optics Corporation immediately attempted to contact Mr. Tachner to investigate whether the status reports they had been receiving were accurate and to determine the extent of any inaccuracies. Mr. Tachner failed to return their calls or answer their inquiries.

12. I am informed and believe that because Mr. Tachner was not responsive to the Physical Optics Corporation's repeated inquiries, in September of 2007 the Physical Optics Corporation undertook a search for new counsel to handle their patent matters.

13. In October of 2007 the Physical Optics Corporation retained Sheppard Mullin Richter & Hampton as their new intellectual property counsel and initiated a transfer of all of their patent files to Sheppard Mullin Richter & Hampton.

14. Sheppard, Mullin, Richter & Hampton immediately undertook a thorough investigation of the entire docket of intellectual properties and learned that the subject patent had been abandoned for failure to pay maintenance fees.

15. During October and early November of 2007, I made repeated attempts to contact Mr. Tachner regarding the abandonment. Mr. Tachner has refused and continues to refuse to answer his telephone or to return my telephone calls. Nonetheless, I worked diligently through his assistant to obtain a signed declaration of Mr. Tachner that the failure to reply to the Office Action was due to a docketing error and was unavoidable and unintentional.

16. On December 5, 2007, I received from Mr. Tachner's assistant a declaration signed by Mr. Tachner stating that the failure to reply to the Office Action was due to a docketing error and was unavoidable and unintentional.

17. Accordingly, I am informed and believe that the entire delay in appropriately replying to the November 18, 2002 Office Action until the filing of the grantable petition included herewith for the above-referenced patent was unavoidable and unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: _____

12/6/7



Daniel N. Yannuzzi

Reg. No. 36727

Sheppard, Mullin, Richter & Hampton

AMENDMENT TRANSMITTAL LETTER (Small Entity)				Docket No.	
Applicant(s): Aye et al.				16LP-134175	

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/920,071	August 1, 2001	Leonidas BOUTSIKARIS	30764	2872	4421

Invention: 3-D HLCD SYSTEM AND METHOD OF MAKING

COMMISSIONER FOR PATENTS:

Transmitted herewith is an amendment in the above-identified application.

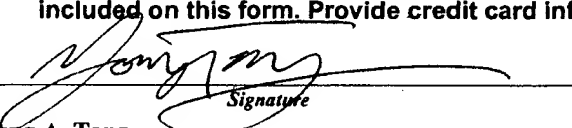
☒ Applicant claims small entity status. See 37 CFR 1.27

The fee has been calculated and is transmitted as shown below.

CLAIMS AS AMENDED					
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	16 -	20 =	0	x \$25.00	\$0.00
INDEP. CLAIMS	4 -	4 =	0	x \$105.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00

- ☒ No additional fee is required for amendment.
- ☐ Please charge Deposit Account No. _____ in the amount of _____
- ☐ A check in the amount of _____ to cover the filing fee is enclosed.
- ☐ The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No.
- ☐ Any additional filing fees required under 37 C.F.R. 1.16.
- ☐ Any patent application processing fees under 37 CFR 1.17.
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.


 Young A. Tang
 Reg. No. 55,665
 SHEPPARD MULLIN RICHTER & HAMPTON LLP
 333 S. Hope Street, 48th Floor
 Los Angeles, CA 90071
 Telephone: 858-720-8900
 Facsimile: 858-509-3691

Dated: December 6, 2007

I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

cc: